

THE
EICHHOLZ
LAW FIRM, P.C.
THE JUSTICE LAWYER

CF
18-0220591
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**NOTICE OF IMMINENT LITIGATION:
RELATING TO ATTEMPT TO COMPROMISE DISPUTED CLAIMS**

January 14, 2020

Big Lots Risk Management
Ms. Rhonda Allton
4900 East Dublin Granville Road
Westerville, OH 43081
Via Electronic Mail rallton@biglots.com

**VIA CERTIFIED MAIL,
RETURN RECEIPT REQUESTED
#70191120000047813691**

RE: MY CLIENT	Wilbert Jackson
YOUR INSURED	Big Lots
DATE OF LOSS	7/29/2018
CLAIM NUMBER	18-0220591

Dear Ms. Allton:

INADMISSIBILITY OF OFFER OF COMPROMISE

Pursuant to O.C.G.A. § 24-4-408, statements made with a view toward compromise are inadmissible at trial. This Georgia law was enacted to encourage the settlement of controversies by permitting parties to discuss their cases candidly, with the assurance that admissions and proposals for compromise made in the course of good-faith settlement negotiations may not be used against them in any subsequent lawsuit. Benn v. McBride, 140 Ga. App. 698 (1976). This entire letter and all the exhibits attached hereto are submitted with a view towards compromise of this claim. If you do not agree that everything that follows, the entire transmission is inadmissible during the litigation of this matter; please stop reading and immediately destroy this letter and its attachments, and notify us of your refusal to review our attempt to compromise this claim.

OFFER OF COMPROMISE

This notice is directed to you as the insurer of Big Lots. This letter is written to submit a demand for compromise of Wilbert Jackson's claim for personal injury against your insured in the above-referenced matter.

On July 29, 2018, my client was an invitee on your premises, shopping at the Big Lots on 2738 Candler Road, Decatur, Georgia. Suddenly, and without warning, as Mr. Jackson was walking down an aisle, the base of an umbrella fell off of a shelf and onto my client's foot, causing personal injuries to my client.

The general rules for premises liability in Georgia are codified in O.C.G.A. §51-3-1, which reads as follows: "Where an owner or occupier of land, by express or implied invitation, induces or leads others to come upon his

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premises for any lawful purpose, he is liable in damages to said person(s) for injuries caused by his failure to exercise ordinary care in keeping the premises and *approaches* safe."

The owner of a business must exercise such diligence towards making his premises safe as the ordinarily prudent businessman is accustomed to use in such matters. Chisholm v. Fulton Supply Co., 184 Ga. App. 378, 361 S.E.2d 540 (1987). Thus, the owner or occupier of land is under a duty to invitees to discover and either keep the premises safe from or to warn of hidden dangers or defects not observable to invitees in the exercise of ordinary care. N.L. Indus, Inc. v. Madison, 176 Ga. App. 451, 336 S.E.2d 574 (1985). Additionally, an invitee has a right to protection while using all areas to which the invitation extends which includes the area for ingress and egress.

In view of the fact that this extremely unsafe condition existed in an area where the store's customers frequently passed, and in view of the fact that the store personnel in the area either were aware or should have been aware of the dangerous condition, liability is not an issue in this case.

Mr. Jackson presented to the Emergency Room at DeKalb Medical Center Hillandale, where he was diagnosed with a right third metatarsal fracture. A splint was administered, and he was instructed to seek follow-up care if his pain and discomfort persisted and worsened.

Accordingly, Mr. Jackson presented to Ankle & Foot Centers of Georgia, where Dr. Naim Shaheed noted edema, as well as limited muscle strength and range of motion. A cast and compression dressings were administered, and a knee scooter prescribed. A bone stimulator and custom orthotics were also prescribed and used through the course of Mr. Jackson's treatment with Dr. Shaheed. He is still in Dr. Shaheed's care for active treatment.

On August 27, 2018, Mr. Jackson was transported by ambulance to the Emergency Room at Emory University Hospital. Mr. Jackson fell from his knee scooter at his home. As a result, Mr. Jackson dislocated his right shoulder. Relocation of the humeral head was required in situ.

Mr. Jackson was referred to Emory Orthopedics for follow-up. Ulnar nerve paresthesia was noted in Mr. Jackson's fourth and fifth fingers of his dominant hand. Physical therapy was prescribed and completed. An EMG confirmed bilateral ulnar neuropathy at the elbow with conduction block, as well as ulnar neuropathy with axonal signal loss and acute denervation. Pain management injections were administered. Mr. Jackson's ulnar nerve dysfunction caused him pain for several months after the fall.

Mr. Jackson's left hip began causing him significant pain and discomfort in the weeks following the subject fall, and thus he presented to Emory Orthopedics for consultation. His clinician noted he was possibly suffering from compensation modality pain. A steroid injection was administered into the left hip, which gave limited and brief relief. Mr. Jackson ultimately underwent arthroplasty of his left hip at Emory University Hospital. Mr. Jackson's total reasonable and necessary medical specials are attached.

In view of the fact that there is no liability issue involved in this matter, this letter shall constitute our formal demand of the sum of \$1,000,000.00¹ to settle the matter. **THIS IS A TIME LIMITED DEMAND, AND, AT 5:00 P.M. EST ON THE THIRTY-FIRST DAY FOLLOWING YOUR RECEIPT OF THIS**

¹ Payment can be made out to "The Eichholz Law Firm, P.C. and Wilbert Jackson." The firm's Tax I.D. number is 58-1310390.

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DEMAND, THIS OFFER WILL BE WITHDRAWN AND WE WILL OBTAIN A JUDGMENT AGAINST YOUR INSURED.

Payment must be made as described herein, and payment by any other method, including payment through the registry of any court or through the filing of an interpleader action, will not satisfy the terms of this demand and will result in the immediate and automatic withdrawal of this demand. Pursuant to Georgia law, our demand must be accepted unequivocally and without variance of any sort. Please be aware that a purported acceptance of this demand which imposes conditions beyond those contained in this demand will be construed as a counteroffer to our demand.

Please make the check payable to "The Eichholz Law Firm P.C. and Wilbert Jackson" and forward same to our office at 319 Eisenhower Drive, Savannah, GA 31406. The firm's Tax I.D. number is 58-1310390. Our W-9 is attached hereto.

We have supplied you with information necessary to evaluate this demand; however, should you have any questions regarding this demand, please do not hesitate to contact me at (912) 232-2791. Of course, this letter relates to settlement discussions, and nothing contained herein shall be deemed admissible except to enforce a claim for bad-faith failure to properly adjust this claim.

Very sincerely yours,
THE EICHHOLZ LAW FIRM, P.C.


Fatima Alexis Zeidan, Esq.

FAZ/mnp
Enclosures

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Form W-9 (Rev. October 2018) Department of the Treasury Internal Revenue Service	Request for Taxpayer Identification Number and Certification ▶ Go to www.irs.gov/FormW9 for instructions and the latest information.	Give Form to the requester. Do not send to the IRS.
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1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

The Eichhoiz Law Firm, P.C.

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.

☒ Individual/sole proprietor or single-member LLC
 ☐ C Corporation
 ☐ S Corporation
 ☐ Partnership
 ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ▶

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3).

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.

319 Eisenhower Drive

6 City, state, and ZIP code

Savannah, GA 31406

7 List account number(s) here (optional)

Requester's name and address (optional)

Print or type. See Specific Instructions on page 3.

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number

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or

Employer identification number

5	8	-	1	3	1	0	3	9	0
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Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here

Signature of U.S. person ▶

Date ▶ 3/27/2019

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding*, later.

Cat. No. 10231X

Form W-9 (Rev. 10-2018)

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